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PORTIONS DENIED AS INDICATED

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SUBJ: Justice Department Letters re OPEC Negotiations

REF: Tripoli 1189; London 6049; State 72612 (NOTAL)

LIMDIS

1. In a letter to John McCloy representing oil companies dated last January 13, head of Justice Department anti-trust division McLaren stated DOJ did "not presently intend" institute proceedings under anti-trust laws on basis of "proposed industry message to OPEC". Message which was made public shortly thereafter, proposed one collective negotiation between all signators (which included all international major oil companies and most large independent companies with

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AF - Mr. Blake JB
NEA - Mr. Davies DE
L/E - Mr. Lieblich WL
E/ORF/FSE - JEAkins RM

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with production in OPEC countries) and OPEC governments in response to resolutions passed at December 1970 OPEC meeting in Caracas. Message was industry attempt to have one negotiation on OPEC demands rather than series of negotiations which could lead to repeat of earlier "leapfrogging" demands with spiraling cost and prices.

2. In second letter dated January 15, McLaren informed McCloy DOJ did not presently intend institute proceedings against companies under anti-trust laws on basis of the Libyan sharing ~~agreement~~ agreement. This ~~agr~~ agreement has never been made public, although its existence was noted in London Financial Times and is ~~x~~ known to OPEC cognoscenti including Libyans.

3. Both letters are in form of standard DOJ business review letters issued when business groups seek DOJ approval before taking some action. They state that DOJ "reserves the right to take (anti-trust) action in future if other evidence or information or subsequent developments should warrant

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such action".

4. Libyan sharing agreement provides that if any company has its production cut back in Libya as result of government action after January 8, 1971 all other parties will share their Libyan production at cost with the company cut back. In case companies are prevented from supplying crude to the ~~company~~ company cut back, parties are obligated to supply Persian Gulf crude on a barrel for barrel basis. Agreement runs through 1973. It was designed to protect independent companies with little or no production outside Libya from Libyan divide and conquer tactics used in September 1970 negotiations.

5. After beginning of Tehran ~~talks~~ talks, Senators requested copies of business review letters and attachments (message to OPEC and sharing agreement). Department opposed releasing letters except on ~~basis~~ classified basis because of adverse effect their release could have on negotiations underway. On our ~~advice~~ advice, DOJ declined to release letters,

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but said it would do so when negotiations were concluded.

6. In letter dated March 23, New York Times requested copies of letters and attachments from DOJ pursuant to Freedom of Information Act. Under this act, information can be withheld only on very limited grounds, including reasons of national defense. Information cannot necessarily be withheld if it adversely affects US relations with other governments, nor if it would compromise US commercial interests. We informed DOJ May 24 we still opposed release of the letters while negotiations were underway (in Iraq and Saudi Arabia) but that we would not object to release when the negotiations were concluded.

7. With conclusion of Tapline and IPC agreements, DOJ again inquired about release of the letters and attachments. Oil company reps met with Under Secretary June 28 and urged that letters not be released, at least until after OPEC meeting July 10. Iraq is preparing to introduce xxxxxx resolution at OPEC meeting to take over 20 percent of

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equity of companies operating in OPEC countries.

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8. We advised DOJ of these views. DOJ has agreed not to release letters for time being. However, it is by no means certain that release of letters can be delayed much beyond July 10 OPEC meeting.

9. UK, French and Dutch Emboffs also called together June 28 to discuss status of letter with Department, but lacked instructions and made no demarche.

10. It should be noted that release of letters to press or Congress in no way implies their revocation. Letters were only expression of intent of DOJ based only on information available to DOJ at time letters were sent. (See State 72612 sent to London).

11. As described above, letters should not be considered in any way "waivers" of US anti-trust laws. No laws

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have been waived. There is no reason to believe that release of letters ~~would~~ would necessarily lead to further demise of London policy group nor restrict freedom of companies to consult with one another. We presume US companies ~~would~~ consulted with each other and with non-US companies long before letters were issued and that they will continue to do so. US companies would be in violation of US anti-trust laws only if such consultations led to restraint of trade affecting US commerce through actions such as price fixing or division of markets in order to reduce competition. If US companies engage in such restraints of trade they would be in violation of US laws, whether or not business review letters issued and whether or not letters made public.

~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~

END

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